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REMARKS

The above amendments and these remarks are submitted in reply to the Office Action dated January 19, 2005.

Summary of the Examiner's Objections/Rejections

Claims 1-3, 7 and 12-13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schieve, et al (U.S. Patent No. 5,398,333) in view of "Using the Windows NT 4.0 Task Manager, How do I close an application that is not responding", Indiana University Press (IUKB). Claims 4-5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schieve, et al. in view of IUKB. Claims 9-11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schieve, et al. in view of IUKB and further in view of Schmidt, et al. (U.S. Patent No. 6,167,482).

Summary of the Applicant's Amendments

The specification has been amended to correct minor grammatical and typographical errors present therein. Claim 1 has been amended. Claims 14-17 have been added to define further novel aspects of the present invention. The Applicant submits that no new matter has been added by such amendments.

Apparent allowance of Claims 6 and 8

On page 6, paragraph 15 of the instant Office Action, the Examiner formally withdrew the previous rejection of Claims 6 and 8. Nowhere within the remainder of the instant Office Action is there a statement or discussion of a current rejection or objection to the aforementioned claims. Thus, moving forward, the Applicant's are working on the assumption that Claims 6 and 8 are now allowable over the art of record.

Rejection of Claims 1-3, 7 and 12-13

The Applicant traverses the rejection of the aforementioned claims for the reasons set forth in greater detail below. In order for two or more references to be properly combined, there must be some teaching, suggestion or motivation present in each of the references to form a combination. MPEP2143. If a proposed combination or

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modification would change the principal of operation of the prior art invention being modified, or render the modified invention unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification; thereby, making the combination improper. MPEP 2143. In the instant application, modifying Schieve, et al. by the technique of IUKB would change the principal of operation of Schieve, et al.; thereby, making the proposed combination improper. As combining Schieve, et al. and IUKB is improper, the Applicant respectfully requests that the rejection based on such combination be withdrawn.

As understood, Schieve, et al. is directed to a system where a single (e.g. reset) button is used to reset the underlying computer system and enter a diagnostics mode depending on the number of times the reset button is depressed within a given time period (see, for example, col. 4, lines 10-15; col. 5, lines 10-15; and col. 5, lines 45-53). IUKB is directed to the use of depressing Ctrl-Alt-Delete, which will open a Task Window (e.g. Windows NT Security), where the user is able to select one or more of a series of operations depending on additional key strokes. Therefore, it takes at least four key strokes before any action is commenced. Thus, modifying Schieve, et al. operation by the disclosed at least three key stroke method of IUKB alters the operating mode of Schieve, et al. to the point where Schieve, et al. will no longer functional as intended. This can be seen in the outcome of the Ctrl-Alt-Delete process. As clearly described on page one of IUKB, depressing the three keys will open a task manager window, whereby, the user can select, via additional keystrokes, a subsequent operation to be performed. This is in contrast to the teachings of Schieve, et al. where upon depressing the reset button, a diagnostics routine is immediately entered. As the methodology employed in Schieve, et al. and IUKB are different, and after modifying Schieve, et al. as presented in IUKB, Schieve, et al no longer works as intended (one button execution) nor for its intended purpose (entering a diagnostics after depressing a single button), there is no motivation present to combine the references. Accordingly, the Applicant submits that the combination of Schieve, et al. and IUKB is improper and should be withdrawn.

Notwithstanding the inappropriateness of combining Schieve, et al. and IUKB, the combination does not render the claimed invention obvious. More specifically, Claim

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1 is directed to a method for entering system firmware recovery mode by performing the following steps:

"...detecting status of at least two software-detectable buttons at power-on of the computer system..." and

"...initiating system firmware recovery mode upon detecting the status of the at least two software-detectable buttons..."

which is not disclosed by the combination of references as cited by the Examiner.

Consequently, the combination of Schieve, et al. and IUKB does not render the claimed invention obvious. First, Schieve, et al. does not disclose the use of at least two software-detectable buttons to perform the disclosed operations. Thus, Schieve, et al. does not detect the status of at least two software-detectable or distinguish between the normal use of the at least two buttons and as firmware recovery buttons as recited in Claim 1.

The Examiner admits such shortcoming, for example, on page 2, paragraph 3 of the instant Office Action. To overcome such shortcoming, the Examiner adds the teachings of IUKB to the teachings of Schieve, et al. and asserts that the combination renders the claimed invention obvious. The Applicant traverses such grounds of rejection.

First, as disclosed on page 1 of IUKB and as admitted by the Examiner, for example, on page 2, paragraph 3 of the instant office action, depressing the Ctrl-Alt-Delete key sequence recited in IUKB, results in a task manager window being accessed, which depending on the subsequent key strokes performed by the user, results in additional operations being performed. Thus, in contrast to the original (and intended) operation of Schieve, et al. of accessing and executing a diagnostics routine upon depressing the reset button, the modified method results in accessing a task manager window- not performing or executing any diagnostics routines.

Second, as also admitted by the Examiner, for example, on page 2, paragraph 3 of the instant Office Action and throughout the Office Action, before performing any subsequent operations, the user must make at least one more keystroke or select from a number of tabs or links (see, figure 2 of the IUKB provided in the Office Action) before any routines (diagnostic or system firmware recovery) are executed. Thus, modifying the teachings of Schieve, et al. by the teachings of IUKB also does not teach or suggest "...initiating system firmware recovery mode upon detecting the status of the at least two

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software-detectable buttons..." as at least four keystrokes must be performed before any functions are executed. Thus, the Applicants submit that the combined references do not render the invention as defined in Claim 1 obvious. Accordingly, reconsideration of the rejection of Claim 1 is respectfully requested.

Claims 2-3, 7 and 12-13 directly or indirectly depend upon and include the limitations of Claim 1 and are submitted to be allowable for the reasons associated with Claim 1. Accordingly, reconsideration of the rejection of Claims 1-3, 7 and 12-13 is respectfully requested.

Rejection of Claims 4-5

The inappropriateness of combining Schieve, et al. and IUKB as discussed above with respect to Claim 1 is equally applicable to the rejection of Claims 4-5 and is incorporated in its entirety herein. Additionally, the Applicant traverses the rejection of the aforementioned claims for the reasons set forth in greater detail below. Claims 4-5 indirectly depend upon and include the limitations of Claim 1 and are thus allowable at least for the reasons set forth above with respect to Claim 1. Accordingly, reconsideration of the rejection of Claims 4-5 is respectfully requested.

Rejections of Claims 9-11

The inappropriateness of combining Schieve, et al. and IUKB as discussed above with respect to Claim 1 is equally applicable to the rejection of claims 9-11 and is incorporated in its entirety herein. Moreover, the Applicant traverses the rejection of the aforementioned claims for the reasons set forth in greater detail below. Claims 9-11 depend upon and include the limitations of Claim 1 and are allowable at least for the reasons set forth above with respect to Claim 1. Additionally, adding the teachings of Schmidt, et al. to the improperly combined teachings of Schieve, et al. and IUKB, still does not overcome the aforementioned shortcomings of Schieve, et al. and IUKB. More specifically, like Schieve, et al. Schmidt, et al. does not teach or suggest:

"...detecting status of at least two software-detectable buttons at power-on of the computer system..." and

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“...distinguishing between normal use of the at least two software-detectable buttons and as firmware recovery buttons...”

In fact, the use or status of at least two software-detectable buttons in maintaining accurate unit timing is not disclosed in Schmidt, et al. If the Examiner disagrees with the above statement, the Examiner is invited to point out where within Schmidt, et al. such teaching can be found in a subsequent, non-final office action. Consequently, combining the combined teachings of Schieve, et al. and IUKB with Schmidt, et al. does not render the invention as defined in Claims 9-11 obvious. Accordingly, reconsideration of the rejection of Claims 9-11 is respectfully requested.

New Claims 14-17

Claims 14-17 have been added to further define novel subject matter that is submitted to be allowable over the art of record. More specifically, Claim 14 includes limitations directed to:

“...detecting a power button and a sleep button being depressed simultaneously at power-on...” and

“...initiating system firmware recovery mode in response to the depressed power and sleep buttons...”

which are not present in the art of record. Accordingly, the Applicant submits that the newly presented claims are allowable.

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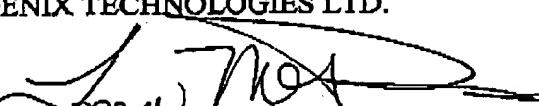
CONCLUSION

In view of the above amendments and remarks, it is respectfully submitted that Claims 1-17 are now in proper condition for allowance and such action is earnestly solicited.

The Commissioner is hereby authorized to charge any underpayments or credit any over payments to Deposit Account No. 16-1520 for any payment in connection with this communication, including any fees for extension of time, which may be required. The Examiner is invited to call the undersigned if such action might expedite the prosecution of this application.

Respectfully submitted,
PHOENIX TECHNOLOGIES LTD.

Date: 4-20-05

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